

Mailed

SEP 26 1990

Decision 90-09-073 September 25, 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 San Diego Gas & Electric Company,)
 for authority to revise its Energy)
 Cost Adjustment Clause Rate, to)
 revise its Annual Energy Rate,)
 and to revise its Electric Base)
 Rates effective May 1, 1990 in)
 accordance with the Electric)
 Revenue Adjustment Mechanism.)
 (U 902-E))

Application 89-09-031
 (Filed September 29, 1989)

OPINION ON REQUEST FOR COMPENSATION

On March 8, 1990, Utility Consumers' Action Network (UCAN) filed a Request for Finding of Eligibility and Award of Intervenor Compensation for its participation in this proceeding. In Decision (D.) 90-05-090 we found that UCAN had not met its burden of showing financial hardship for 1990 by reliance on a decision issued in 1989. On April 11, 1990, UCAN filed another "Request for Finding of Eligibility". By D.90-06-060 we found UCAN eligible to claim compensation for its participation in this proceeding.

Rule 76.58 of the Rules of Practice and Procedure requires the Commission not only to determine whether UCAN made a substantial contribution to D.90-05-090, but also to describe that substantial contribution and to set the amount of the compensation to be awarded. According to Rule 76.52(g), an intervenor has made a "substantial contribution" when:

"...in the judgment of the Commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer."

Thus, the threshold issue is whether the party made a substantial contribution to our decision and, if so, on what issues. If a party has made a substantial contribution on a certain issue, the elements that make up the award are the fee level, the number of compensable hours, and the degree of success.

UCAN's contribution to the forecast phase of the energy cost adjustment clause (ECAC) proceeding focused upon the following issues:

- a. Participation in workshops through which resolution of all issues, except residential rate design, was achieved. This participation was expressly acknowledged by the parties.
- b. Active litigation in a residential rate design issue that was not informally resolvable.

The first category relates to the Commission's long-standing policy of encouraging intervenors to participate in workshops and settlement conferences. UCAN's contributions to settled applications have been recognized in the past by the Commission and have been compensated. We have previously stated:

"We agree with UCAN that it would be inappropriate to encourage intervenor participation in workshops and settlement conferences and deny compensation because there is no clear assignment of contribution."
(D.88-12-085 (1988) 30 CPUC 2nd 299 at 339.)

In connection with its participation in the resolution of issues described in a. above, UCAN seeks compensation for 48 hours of its attorney's time at the rate of \$135 per hour, \$6,480; 17 hours of one witness' time at \$75 per hour, \$1,275; 66.25 hours of its witness' associate's time at \$45 per hour, \$2,981.25; and other costs of \$780.15, for a total of \$11,516.40. UCAN also requests \$1,714.50 for 12.7 hours of its attorney's time in connection with the litigation of residential rate design described in b. above.

UCAN also requests compensation for 3.5 hours of its attorney's time at \$135 per hour, a total of \$472.50 for the preparation of the compensation request.

UCAN is entitled to compensation as requested for its contribution in the resolution of issues and for the preparation of its compensation request, the total amount being \$11,988.90. Since we did not adopt the residential rate design proposed by UCAN, UCAN is not entitled to compensation in that area.

As discussed in previous Commission decisions, this order will provide for interest commencing on June 25, 1990 (the 75th day after UCAN filed its request for financing of eligibility) and continuing until full payment of the award is made.

UCAN is placed on notice it may be subject to audit or review by the Commission Advisory and Compliance Division. Therefore, adequate accounting records and other necessary documentation must be maintained and retained by the organization in support of all claims for intervenor compensation. Such recordkeeping systems shall identify specific issues for which compensation is being requested, the actual time spent by each employee, the hourly rate paid, fees paid to consultants and any other costs for which compensation may be claimed.

Findings of Fact

1. UCAN has requested compensation totaling \$13,703.40 for its participation in this proceeding.
2. UCAN was found eligible for compensation in D.90-06-060.
3. UCAN made a significant contribution with respect to the resolution of all issues except residential rate design in workshops associated with the forecast phase of this proceeding.
4. UCAN did not make a significant contribution to residential rate design for which it sought compensation.
5. An hourly rate of \$135 is a reasonable fee for an attorney of Mr. Shames' training, experience, and expertise, and

hourly rates of \$75 and \$45 are reasonable fees for UCAN's witness and his associate.

6. The time claimed for UCAN's participation in this proceeding is reasonable.

Conclusions of Law

1. UCAN made a substantial contribution to D.90-05-090 on the resolution of issues in workshops which led to the joint ECAC workshop report of the parties.

2. San Diego Gas & Electric Company should be ordered to pay UCAN \$11,988.90, plus any interest accrued after June 25, 1990.

O R D E R

IT IS ORDERED that San Diego Gas & Electric Company (SDG&E) shall pay Utility Consumers' Action Network (UCAN) \$11,988.90 within 15 days as compensation for UCAN's substantial contribution to D.90-05-090. SDG&E shall also pay UCAN interest on this amount, calculated at the three-month commercial paper rate, beginning June 25, 1990 and continuing until full payment of the award is made.

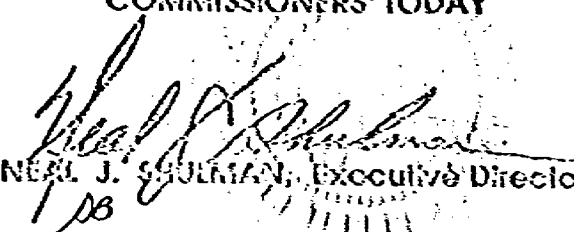
This order is effective today.

Dated September 25, 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director